

1 **SECTION 85.** 30.20 of the statutes is repealed and recreated to read:

2 **30.20 Removal of material from beds of navigable waters.** (1) CONTRACT

3 REQUIRED. (a) Unless a contract has been entered into with the department under
4 this section, no person may remove material from the bed of a navigable lake or from
5 the bed of outlying waters of this state.

6 (b) Unless a permit has been granted by the department, no person may remove
7 material from the bed of a lake or stream not described in par. (a).

8 (2) EXCEPTION. The exception from sub. (1) (a) for the removal of material from
9 a farm drainage ditch, as provided in s. 30.215, does not apply if the department finds
10 that the proposed removal may have a long-term adverse effect on cold-water
11 fishery resources or may destroy fish spawning beds or nursery areas. A person who
12 proposes to remove material that may be exempt from the permit requirement under
13 this paragraph but that may affect cold-water fishery resources, fish spawning beds
14 or nursery areas shall notify the department at least 10 days prior to the removal.

15 (3) CONTRACTS AND PERMITS. (a) The department may enter into a contract on
16 behalf of the state for removal and lease or sale of material for which a contract is
17 required under sub. (1) (a) if the contract is consistent with public rights. Each
18 contract under this paragraph shall contain any conditions that are necessary for the
19 protection of the public interest and the interest of the state. Each contract under
20 this paragraph shall also fix the amount of compensation to be paid to the state for
21 the material removed, except no compensation shall be required for material
22 provided under contract with a municipality, as defined in s. 281.01 (6), if the
23 material is to be used for a municipal purpose and not for resale. No contract entered
24 under this paragraph may run for more than 5 years.

1 (b) The department may enter into a contract on behalf of the state for removal
2 and lease or sale of minerals, ore and materials from beneath the bed of ^{navigable} public trust
3 waters if the contract would be consistent with public rights and if the waters would
4 not be disturbed in the removal operation. Each contract under this paragraph shall
5 contain any conditions that are necessary for the protection of the public interest and
6 the interests of the state. Each contract under this paragraph shall also fix the
7 amount of compensation to be paid to the state for the material, mineral and ore
8 removed. Should any doubt exist as to whether the state in fact owns such lake bed
9 or stream bed such contract or lease shall be for such interests, if any, as the state
10 may own. Title to the royalties to be paid when mining operations are begun shall
11 be determined at such future time as royalties for ore so sold are paid or are due and
12 payable. No contract entered under this paragraph may run for more than 75 years.

13 (c) The department may grant a permit to remove material from the bed of a
14 lake or stream not described in sub. (1) (a) if the permit will be consistent with the
15 public interest in the water affected by the removal. A permit under this paragraph
16 may be granted by the department for up to 10 years if the applicant notifies the
17 department at least 30 days before removing any material.

18 (d) The notice and hearing provisions of s. 30.245 apply to permit or contract
19 applications under this section that involve the removal of 3,000 cubic yards or more
20 of material except when restoring the original dimensions of an area legally dredged
21 during the 10 years prior to the date of application.

30.02
NOTE: Current s. 30.20 does not contain a requirement for public notice or a hearing
under s. 30.20. This draft makes a permit or contract under s. 30.20 subject to the notice
and hearing requirements of new s. 30.245 for dredging that involves the removal of more
than 3,000 cubic yards, which corresponds with the threshold for a type II action for
purposes of environmental review under ch. NR 150, Wis. Adm. Code.

INS

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bill

**** NOTE: In s. 30.202 (3), should underscored
"chapter" be "subchapter?"

SECTION 86. 30.202 of the statutes is renumbered 30.333² and 30.333 (3), as renumbered, is amended to read:

30.333 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities authorized under sub. (2) are exempt from any prohibition, restriction, requirement, permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty specified under this chapter ² or s. 29.601, 30.01 to 30.20, 30.21[✓] to 30.99[✓], 59.69[✓]2 or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any rule promulgated, order issued, or ordinance adopted under those sections or chapters.

SECTION 87. 30.2025 of the statutes, as created by 2001 Wisconsin Act 16 is renumbered 30.278² and 30.278 (5) (d), as renumbered, is amended to read:

SECTION 88. 30.2026 of the statutes, as created by 2001 Wisconsin Act 16, is renumbered 30.279[✓] and 30.279 (2) (d) and (3) (a), as renumbered, are amended to read:

30.279 (2) (d) The village of Belleville shall create any artificial barrier under this section in compliance with all state laws that relate to navigable bodies of water, except s. 30.12 (1) ~~and (2) (a)~~

(3) (a) The village of Belleville shall maintain any artificial barrier created as authorized under sub. (1). If a landowner of more than 500 feet of Lake Belle View shoreline, a portion of which is located within 1,000 feet of any such artificial barrier, is dissatisfied with the manner in which the village of Belleville is maintaining the barrier, the owner may maintain the barrier in lieu of the village, upon approval of the department. The village or a landowner who maintains the barrier shall comply with all state laws that relate to navigable bodies of water, except s. 30.12 (1) ~~and (2)~~

~~and~~ The department may require the village of Belleville or the landowner to maintain the barrier in a structurally and functionally adequate condition.

**** NOTE: I removed the cross-references in S. 30.279(2)(d) and (3)(a), as renumbered, because they seemed redundant and confusing.

SECTION 89. 30.203 of the statutes is renumbered 30.355 and 30.355(4)(d), as renumbered, is amended to read:

SECTION 90. 30.2035 of the statutes is repealed. → INS 43-1

NOTE: The repealed statute requires the DNR to undertake a shoreline protection study. This ~~report~~ study has been issued and the DNR is in the process of promulgating rules.

SECTION 91. 30.2037 of the statutes is renumbered 30.267.

SECTION 92. 30.204 of the statutes, as affected by 2001 Wisconsin Act 16, is

renumbered 30.373, and 30.373 (5), as renumbered, is amended to read:

30.373 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the department in conducting the lake acidification experiment are exempt from any prohibition, restriction, requirement, permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty specified under this subchapter and subchs. I, V, and VI and s. 29.601 (3), 30.01 to 30.03, 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, 59.692, 87.30, 287.81, 299.15 to 299.23, 299.91, 299.95, or 299.97 or chs. 281, 283 or 289 to 292 or specified in any rule promulgated, order issued, or ordinance adopted under any of those sections or chapters.

**** NOTE: Are any of the changes in S. 30.373(5) substantive changes? in the cross-references

SECTION 93. 30.205 of the statutes is renumbered 30.335.

SECTION 94. 30.206 of the statutes is renumbered 30.221 and 30.221 (1) and (7), as renumbered, are amended to read:

30.221 (1) For activities which require a permit or approval under ss. 30.12 (3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a class of activities, according to rules promulgated by the department. Before issuing general permits, the department shall determine, after an environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the cumulative adverse environmental impact of the class of activity is insignificant and that issuance of the general permit will not injure public rights or interest, cause

**** NOTE: The changes in S. 30.204(5) vary from the cross-reference changes in S. 30.202(3). Is that intentional?

be to "subchapter" instead of to "chapter"?

environmental pollution, as defined in s. 299.01 (4), or result in material injury to the rights of any riparian owner. *plain*

(7) This section does not apply to an application for a general permit for the Wolf River and Fox River basin area or any area designated under s. ~~30.207~~ 30.223 (1m) if the application for the general permit may be submitted under s. ~~30.207~~ 30.223.

**** NOTE: Should the reference in s. 30.206 (3m) and (b) be

SECTION 95. 30.207 of the statutes, as affected by 2001 Wisconsin Act 16, is

renumbered 30.223 and 30.223 (1), (3) (a), (4) (c) 1, (5) and (7) (a), as renumbered, *STET* and amended to read: *and (c) 6, (6) (a) and (b)*

30.223 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12~~ (3) (bt) 30.276, the Wolf River and Fox River basin area consists of all of Winnebago County; the portion and shoreline of Lake Poygan in Waushara County; the area south of STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that portion of Outagamie County south and east of USH 41; that portion of Waupaca County that includes the town of Mukwa, city of New London, town of Caledonia, town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River in the town of Weyauwega.

SECTION 95. 30.207 (3) (a); 30.207 (3) (c) *STET*
30.223 (3) (a) Any local entity, as defined listed in s. 30.77 (3) (dm) (11) (a), any group of 10 riparian owners who will be affected by the issuance of a general permit, or any contractor who is or has been involved in the construction of structures or along navigable waters may apply for a general permit under this section.

30.223 (4) (c) 1. Any local entity, as defined in s. 30.77 (3) (dm) (11) (a) that has an interest in the quality or use of or that has jurisdiction over the navigable waters located in the proposed permit area. *strike*

INS

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44-25

**** NOTE: Should the reference in s. 30.207 (2), (5), (6)(b), and (8) be to "subchapter" instead of to "chapter"?

1 ~~30.207~~ (5) HEARING REQUIREMENTS. If an activity for which an application for ~~which~~ a
2 general permit has been submitted would be subject to the hearing and notice
3 provisions under s. 30.02 (3) and (4) 30.245 for the issuance of an individual permit,
4 the department shall comply with those provisions. Notice and hearing shall be
5 required on an application for a general permit under this section only if a notice and
6 hearing are required under s. 30.02 (3) and (4) 30.245 for the activity as part of an
7 application for an individual permit under this chapter.

INSERT

445-7

8 ~~(7) ACTIVITIES UNDER GENERAL PERMIT~~ (a) At least 15 days before beginning
9 the activity that is authorized by a general permit under this section, the person who
10 wishes to conduct the activity shall submit a notice to the department and shall pay
11 the fee specified in s. 30.28 30.243 (2) (b) 2. The notice shall describe the activity,
12 state the name of the person that will be conducting the activity, and state the site
13 where the activity will be conducted. The notice shall also contain a statement signed
14 by the person conducting the activity that the person will act in conformance with
15 the standards contained in the general permit.

**** NOTE: Re: s. 30.207 (3)(a) and (4)(c) 1, check RNK's draft to verify that the changes work.
16 ~~SECTION 96. 30.21 of the statutes is renumbered 30.293.~~ → INSERT 45-16

17 SECTION 97. 30.213 (title) of the statutes is created to read:

18 **30.213 (title) Municipal bridge construction.**

19 SECTION 98. 30.215 of the statutes is created to read:

20 **30.215 Farm drainage ditches.** (1) DEFINITION. In this section, "farm
21 drainage ditch" means any artificial channel that drains water from lands that are
22 used for agricultural purposes.

23 (2) EXEMPTION. (a) A project that is for an agricultural purpose and is located in
24 or adjacent to a farm drainage ditch is exempt from the requirement for a permit or
25 approval under this subchapter unless any of the following applies:
it is shown, by means of a U.S. geological

contract,

5+6+7

Q1. A U S g^{eo}iological

1 survey map or other reliable scientific evidence, ^{shows} that the farm drainage ditch was a
2 stream that was ~~public trust~~ ^{a navigable} water prior to ditching.

3 (3) ~~COLD WATER FISHERIES; FISH SPAWNING BEDS AND NURSERIES.~~ The exemption
4 in sub. (2) for the removal of materials under s. 30.20 is subject to the limitation in
5 s. 30.20 (2).

NOTE: The current statute related to farm drainage ditches is as follows:

"30.10 (4) (c) Notwithstanding any other provision of law, farm drainage ditches are not navigable within the meaning of this section unless it is shown that the ditches were navigable streams before ditching. For purposes of this paragraph, "farm drainage ditch" means any artificial channel which drains water from lands which are used for agricultural purposes."

The proposed redraft in new s. 30.215 differs in 2 key respects from the current statute. The primary difference is that the exemption clearly applies to a project for an agricultural purpose, not to the farm drainage ditch itself. Thus, a project for other than agricultural purposes would require a permit, even though the drainage ditch was originally constructed as and continues to be used as a farm drainage ditch.

The other difference is that the statute specifies the kind of evidence that may be used to show stream history.

The proposed language, in sub. (3), preserves the current restriction on removal of materials from farm drainage ditches, as it may affect cold water fisheries, or fish spawning beds or nurseries.

6 **SECTION 99.** 30.24 of the statutes is renumbered 30.357.

7 **SECTION 100.** 30.243 (3) (c) [✓] of the statutes is created to read:

8 30.243 (3) (c) This section does not apply to a permit issued under s. 30.221. [✓]

9 **SECTION 101.** 30.245 of the statutes is created to read:

10 **30.245 Notice and hearing; mediation.** (1) NOTICE AND HEARING;
11 REQUIREMENT; OPTION. (a) The department shall apply the procedures in this section
12 with respect to a permit or contract under this subchapter where the applicable
13 statute requires notice and a hearing under this section.

14 (b) If the applicable statute for a permit or contract under this subchapter does
15 not require notice and a hearing under this section, the department may apply the
16 procedures in this section with respect to a permit or contract under this subchapter
17 if ~~it~~ determines that the substantial interests of any party may be adversely affected

the department

notification of the pending hearing

1 by the proceeding. This paragraph does not apply to any statute in which this section
2 is specifically made in applicable.

3 (2) DEPARTMENT MAY DENY APPLICATION. The department may deny the
4 application for a permit or contract under this subchapter after receipt of a complete
5 permit or contract application. If the department denies an application, it shall
6 notify the applicant. ^{If} The applicant ^S may request a contested case hearing within 30
7 days after receiving notice of the denial, ^{whereupon} the department shall submit the
8 ~~application~~ ^{under S. 227.43(2)(a)} to the division of hearings and appeals. The procedures in sub. (6) apply to the
9 hearing. *IS NOT?*

10 (3) NOTICE. (a) Except where the department denies an application under sub.
11 (2), and except where specific notice or hearing provisions are provided in this
12 subchapter, after receipt of a complete permit or contract application, the
13 department shall provide notice that it has received the application. The notice shall
14 describe the project and the procedures under this section. The department shall
15 provide the notice to all of the following:

16 1. The applicant.

17 2. Each local governmental unit under s. 30.04 ² (4).

18 3. Any other person required by law to receive notice.

19 (b) The department shall post the notice on the Internet at a site determined
20 or approved by the department.

21 (c) The applicant shall publish the notice as a class 1 notice ^(under ch. 985) in a newspaper
22 designated by the department that is likely to give notice in the area affected. The
23 applicant shall file proof of publication with the department. The department may
24 authorize any other person to provide the notice.

1 (4) REQUEST FOR HEARING; ACTION ON REQUEST. (a) Any person may request a
2 contested case hearing. The request for a hearing shall be in writing. If the person
3 requesting a hearing is not the applicant, the request shall describe the requester's
4 objection to the project. The objection shall contain all of the following:

5 1. A description of the legal issues with sufficient specificity so that the
6 department may determine the standards in this subchapter that the objector
7 believes may be violated if the project proceeds.

8 2. A description of the factual basis for the objection, with sufficient specificity
9 so that it ~~can be determined~~ ^{the department may determine} how the objector believes the project, as proposed, may
10 violate the standards identified under subd. 1.

11 3. A commitment by the objector to appear and present information supporting
12 the objection in a contested case hearing.

13 (b) The department shall proceed on the application without a hearing if any
14 of the following apply: ^{ies}

15 1. The department does not receive a request for a contested case hearing
16 within 30 days after the notice is published under sub. (3) (c). ✓

17 2. The request for a hearing is not in the form required in par. (a). ✓

18 3. The objection stated by the person requesting the hearing is not a
19 substantive ^{written} objection under par. (c). ✓

20 (c) The department shall determine if the objection to the project as described
21 under par. (a) is a substantive ^{written} objection. The department may request additional
22 information from a person requesting a hearing in order to make the determination
23 under this paragraph, and the person requesting a hearing shall respond to the
24 department's request within 2 weeks. ~~No~~ ^{A written} objection is substantive if it is sufficient
25 for the department to make the following determinations:

(2)(a)

notify

- 1 1. The facts described by the objector appear to be substantially true.
- 2 2. The facts described by the objector raise reasonable doubts as to whether the
- 3 project, as proposed, complies with the applicable standards in this subchapter.

4 (d) Except as provided in sub. (5), the department shall ~~submit the file to the~~ ^{application} ~~division of hearings and appeals~~ ^{if the request for a hearing complies with this} ~~subsection.~~ ^{(under 5.227.43) and the division of hearings and appeals shall assign a hearing}

7 (5) MEDIATION. (a) Prior to a contested case hearing, the department shall allow
8 for mediation between the applicant, any person who requests a contested case
9 hearing on the permit or contract, any person with a substantial interest in the
10 permit or contract, and the department, if those persons agree to mediation. The
11 participants shall determine how the mediator is to be selected and compensated.

12 (b) If the participants determine that they cannot reach an agreement in
13 mediation, any participant in the mediation may request a contested case hearing
14 within 30 days after the conclusion of mediation. The request shall be in writing and
15 shall include the information required in sub. (4) (a). ^{specified in par. (b)} ^{notify} ^{under 5.227.43(2)(a)} ~~The department shall submit~~
16 ~~the file to the division of hearings and appeals if the department receives the request~~
17 ~~within 30 days after the notice is published under this paragraph and if the request~~
18 ~~for a hearing complies with sub. (4) (a) and (c).~~

19 (c) ~~The department shall proceed on the application if it does not receive a~~ ^{notification} ~~request for a hearing under par. (b).~~ ^{application} ^{under 5.227.43(2)(a)}

21 (6) HEARING. (a) Upon receiving the ~~file~~ ^{notification} from the department, the division of
22 hearings and appeals shall ~~order a contested case hearing.~~ ^{order a contested case hearing} ~~The hearing shall~~ ^{notification is received} ~~be~~ ^{and shall ensure} ~~is~~ ^{that the}
23 conducted within 60 days after the ~~hearing is ordered.~~ ^{hearing is ordered}

assign a hearing examiner

1 (b) The division of hearings and appeals shall mail a written notice at least 10
2 days before the hearing to each person given notice under sub. (3) and to any person
3 who submitted a request for a hearing.

4 (c) The applicant shall publish a class 1 notice under ch. 985 of the hearing in
5 a newspaper designated by the department that is likely to give notice in the ~~area~~
6 affected ^{area}. The notice shall be published at least 10 days before the hearing. The
7 applicant shall file proof of publication under this paragraph with the hearing
8 examiner at or prior to the hearing.

NOTE: The notice and hearing provisions in current s. 30.02 are repealed and recreated here. The basic structure of this statute remains the same: the notice and hearing procedures apply to any permit or contract in which a notice and hearing is required by direct cross-reference to this section. In any other statute that provides a permit or contract for activities in navigable waters, the DNR may apply the notice and hearing procedures if the substantial interests of any party may be adversely affected by the proceeding. The statute provides a time frame within a contested case hearing may be requested and requires various notices to be mailed or published.

Proposed s. 30.245 has several major additions compared to the current statute. The first difference is that the current statute does not expressly provide that the DNR may deny the application for a permit or contract. The current statute requires the DNR either to schedule a hearing or issue notice that it will proceed without a hearing unless a request for hearing is made. As a result, an individual who opposes a permit must request a hearing, even if the DNR expects to deny the application. The new procedure allows the DNR to deny the application for a permit or contract, and the applicant may request a contested case hearing on this decision.

The 2nd difference is that the DNR is directed to post notice of the complete permit or contract application and the opportunity to request a hearing on the Internet. In addition, a provision in the current statute requiring the DNR to provide notice to any person who requests notice of projects of that type, location or other classification is eliminated. Also, notice is required to affected town sanitary districts, public inland lake protection and rehabilitation districts and county drainage boards.

The 3rd difference is that a mediation option is provided. There is no comparable provision in the current statute. The applicant and DNR must agree to be a party to the mediation. The mediation process is primarily expected to address issues of concern to owners of property near the proposed project. If an agreement is not reached in mediation, the parties to the mediation may request a contested case hearing.

The 4th difference is that the requirement of a substantive written objection, which is a condition for obtaining a contested case hearing under the current statute, is clarified and made more detailed. The current statute requires the objector to state why the project may violate statutory provisions applicable to the project. The purpose of this requirement is to avoid contested case hearings when there is not merit to the challenge--i.e., the facts alleged by the objector are not true or do not relate to the legal standards for granting or denying the permit. The special committee believes that the current statute, as administered by the department, has not been sufficient to avoid challenges to permits in contested case hearings that are ultimately determined to be without merit. This bill ~~draft~~ adds to the information that must be submitted by the

DNR

Review should include "hearing" language in s. 30.77. ✓

objector, allows the department to request additional information from the objector, and requires the department to do a thorough evaluation of the grounds for the objection, both legal and factual.

This provision omits the option for the department to schedule a public hearing upon receipt of an application, rather than providing notice of the application. This option is no longer necessary if the department is given authority to deny an application, as provided in this section.

**** NOTE: MGB has not yet reviewed s. 30.245. ↗

1 SECTION 102. 30.25 of the statutes is renumbered 30.269.

2 SECTION 103. 30.253 of the statutes is created to read:

3 30.253 Permit or contract conditions. The department may impose
 4 conditions on a permit or contract under this subchapter to ^{ensure} assure compliance with
 5 standards expressly provided in this subchapter.

**** NOTE: What does s. 30.253 say? "Expressly provided"?

6 SECTION 104. 30.26 of the statutes is renumbered 30.271.

7 SECTION 105. 30.263 (title) of the statutes is created to read:

8 30.263 (title) Duck Creek Drainage District. (B)(1)(title) as Declaration of navigability.

9 SECTION 106. 30.263 (4) of the statutes is created to read:

10 30.263 (4) The drainage board for the Duck Creek Drainage District may,
 11 without a permit under s. 30.20 (3) (c), remove material from a drain that the board
 12 operates in the Duck Creek Drainage District if the removal is required, under rules
 13 promulgated by the department of agriculture, trade and consumer protection, in
 14 order to conform the drain to specifications imposed by the department of
 15 agriculture, trade and consumer protection after consulting with the department of
 16 natural resources.

NOTE: Subsection (4) is identical to current s. 30.20 (1) (d).

17 SECTION 107. 30.265 of the statutes, as created by 2001 Wisconsin Act 16, is
 18 renumbered 30.375.

19 SECTION 108. 30.266 (1) of the statutes is created to read:

20 30.266 (1) DEFINITION (In this section:
 (intro.)

1 SECTION 109. 30.27 of the statutes is renumbered 30.273.

2 SECTION 110. 30.275 of the statutes is renumbered 30.359.

3 SECTION 111. 30.276 of the statutes is created to read:

4 **30.276 (title) Seawalls; Wolf and Fox River basins.** A riparian owner is exempt
5 from the permit requirements under s. 30.12 (3) and this section for a structure that
6 is placed on the bed of navigable water in the Wolf River and Fox River basin area,
7 as described in s. 30.223 (1), and that extends beyond the ordinary high-water mark,
8 if the following conditions apply:

9 (1) The structure is a vertical wall designed to prevent land from eroding into
10 navigable water.

11 (2) The structure is not a replacement for an existing structure and is placed
12 on the bed of an artificial enlargement of navigable water, or the structure is a
13 replacement for an existing structure placed on the bed of navigable water, including
14 the bed of an artificial enlargement of navigable water.

15 (3) If the structure is a replacement for an existing structure placed on the bed
16 of navigable water, including the bed of an artificial enlargement of navigable water,
17 it is placed not more than 2 feet waterward of the structure that it is replacing.

18 (4) The structure incorporates adequate bracing and anchors to ensure
19 structural stability.

20 (5) A filter fabric lining containing a layer of gravel extends from the landward
21 side of the structure to facilitate drainage.

22 (6) The base of the structure extends to a sufficient depth into the bed of the
23 navigable water to ensure the structure's stability and to prevent the structure from
24 failing.

(7) The structure is secured into the bank of the navigable water in a manner that prevents erosion or scouring.

(8) The riparian owner places riprap at the base of the waterward side of the structure up to the waterline or, if the structure is placed in a location where watercraft are moored, the riparian owner places riprap at the base of the waterward side of the structure up to a point that allows adequate space for the mooring of watercraft.

(9) The structure is constructed of treated wood and built so that the top of the structure meets the lower of the following:

(a) The natural topography of the bank of the navigable water.

(b) A point that is 4 feet above the ordinary high-water mark of the navigable water.

(c) The minimum height required to prevent overtopping by wave action.

NOTE: This recreates current s. 30.12 (3) (bt), which was created by 2001 Wisconsin act 16.

SECTION 112. 30.277 of the statutes is renumbered 30.361.

SECTION 113. 30.28 of the statutes is renumbered 30.243 and 30.243 (1), (2) (a) (intro.) and (b) (2m) (am), (b) and (d) and (8) (b), as renumbered, are amended to read:

30.243 (1) FEES REQUIRED. The department shall charge a permit or approval fee for carrying out its duties and responsibilities under ss. 30.10 to 30.205, 30.207 and 30.21 to 30.27 this subchapter. The permit or approval fee shall accompany the permit application, notice or request for approval.

(2) AMOUNT OF FEES (a) For fees charged for permits and approvals under ss. 30.10 to 30.205 and 30.21 to 30.27 this subchapter, except s. 30.223, the department shall classify the types of permits and approvals based on the estimated

time spent by the department in reviewing, investigating, and making determinations whether to grant the permits or approvals. The department shall then set the fees as follows:

(b) 1. For an application for a general permit submitted under s. ~~30.207~~ 30.223 (3), the fee shall be \$2,000.

2. For a notice submitted under s. ~~30.207~~ 30.223 (7), the fee shall be \$100.

(2m) (am) The department shall refund 50% of the fee specified in sub. (2) (b) 1. if the department denies an application for a general permit under s. ~~30.207~~ 30.223 (3) (d) 1. or does not issue a general permit under s. ~~30.207~~ 30.223 (6).

(b) If the applicant applies for a permit, requests an approval, or submits a notice under s. ~~30.207~~ 30.223 (7) after the project is begun or after it is completed, the department shall charge an amount equal to twice the amount of the fee that it would have charged under this section.

(d) The department, by rule, may increase any fee specified in sub. (2) (a). The department, by rule, may increase a fee specified in sub. (2) (b) only if the increase is necessary to meet the costs incurred by the department in acting on general permits or on notices submitted under s. ~~30.207~~ 30.223.

(3) (b) This section does not apply to a permit issued under s. 30.12 (3) (a) 2., 2m. or 3. or 9.

SECTION 114. 30.29 of the statutes is renumbered 30.86.

**** NOTE: Check as to whether this fits in the boating subchapter.

SECTION 115. 30.292 of the statutes is repealed.

NOTE: The repealed provision relates to parties to a violation. An identical provision that applies to ch. 30 in its entirety already exists in s. 30.99.

**** NOTE: Should the reference in s. 30.294 be to "subchapter" instead of to "chapter"?

SECTION 116. 30.294 of the statutes is renumbered 30.975.

**** NOTE: In later version, change cross-reference in s. 30.772 (3) (a).

SECTION 117. 30.298 (title) of the statutes is renumbered 30.381 (title).

**** NOTE: Take out the creation of s. 30.381 (title), which is in second half of draft.

the 2nd (the)

*** NOTE: In later version, check changes in cross-references in 5. 30.298(1).

SECTION 118. 30.298 (1), (2) and (3) of the statutes are renumbered 30.381 (1), (5) and (6) and 30.381 (1) and (9) as renumbered, are amended to read:

30.381 (1) Any person who violates any provision of ss. 30.095, 30.12 to 30.21, 30.217, 30.223, 30.231, 30.255, 30.266, 30.276, 30.278, 30.279, 30.281, 30.283, 30.293,

30.313, and 30.85 for which a penalty is not provided under the applicable section or by sub. (2) or (3) shall forfeit not less than \$100 nor more than \$10,000 for the

first offense and shall forfeit not less than \$500 nor more than \$10,000 upon conviction of the same offense a 2nd or subsequent time.

(6) (9) Any person who violates s. 30.206 30.221 shall forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or subsequent time.

SECTION 119. 30.298 (4) of the statutes is renumbered 30.98 (3).

*** NOTE: Should reference in 5. 30.298 (4) to "chapter" be changed to "subchapter"?

SECTION 120. 30.298 (5) of the statutes is renumbered 30.381 (11) and amended to read:

30.381 (11) In addition to the forfeitures specified under subs. (1) to (3), the court may order the defendant to perform or refrain from performing such acts as may be necessary to fully protect and effectuate the public interest in navigable waters. The court may order abatement of a nuisance, restoration of a natural resource or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

SECTION 121. 30.30 of the statutes is renumbered 30.491 and 30.491 (5) and (7), as renumbered, are amended to read:

30.491 (5) ACQUISITION OF LAND. Acquire such lands or interests therein as it deems necessary for properly carrying out its powers under this chapter subchapter, including such lands outside the municipal limits as are necessary to protect its

*** NOTE: (MGO: Make use of titles consistent for 5. 30.381 in next draft.

55-20

material from p. 5, lines 9-18 7-8 1

1 property or to carry out its powers under sub. (3). Such acquisition may be by
2 condemnation proceedings.

3 (7) DOING OF WORK. Contract for the doing of the work authorized by this section
4 or purchase the necessary equipment for the doing of the work itself, but if the
5 municipality has established a board of harbor commissioners such board shall have
6 charge of the letting of contracts and shall supervise the doing of the work, except
7 as provided in ss. 30.31 30.492[✓] (1) and 30.32 30.493[✓] (2).

8 SECTION 122. 30.31 of the statutes is renumbered 30.492[✓] and 30.492 (1), (4) and
9 (6), as renumbered, are amended to read:

10 30.492 (1) SUPERVISION OF WORK. In exercising the powers granted by s. 30.30
11 30.491[✓] (1) to (3),[✓] a municipality shall be governed by the law governing the laying out,
12 improvement[✓] and repair of streets and bridges in such municipality, so far as
13 applicable, except that no petition of property owners for doing any such work is
14 necessary. If the municipality has established a board of harbor commissioners, such
15 board shall be in charge of the work unless the board determines that it is not
16 equipped to supervise the work and by resolution delegates such function to the
17 agency which ordinarily performs such function for the municipality. If the
18 municipality does not have a board of harbor commissioners, the municipality's
19 board of public works or, in the event there is no such board, the municipality's
20 governing body shall be in charge of the work.

21 (4) ACQUISITION OF LAND. In acquiring land by condemnation for any of the
22 purposes specified in this ~~chapter~~ subchapter, a municipality shall be governed by
23 the law relating to condemnation of land for public grounds or street purposes.
24 Whenever land is acquired through a land contract arrangement, such contract may

1 create a lien on such lands for the purchase price and interest thereon but shall not
2 create any liability therefor on the part of the municipality.

3 (6) SPECIAL ASSESSMENTS. Special assessments for benefits to lands, when
4 authorized by s. ~~30.30~~ [✓]30.491 (4), shall be made and enforced as provided by s.
5 66.0703, except that at any time within the 90-day period immediately following the
6 publication of the final resolution as required by s. 66.0703 (8) (d), the owner of any
7 property along which such improvement is to be made may elect to make the
8 improvement along the owner's property at the owner's expense in accordance with
9 the approved plans and specifications or in a manner which conforms to good
10 engineering practice and which provides for materials and designs which, with
11 respect to strength and permanence, are at least equal to the requirements of the
12 approved plans and specifications. If the owner makes the improvement at the
13 owner's expense, no assessment of benefits shall be made therefor. If such owner
14 fails to commence the work within the 90-day period specified herein or fails to carry
15 on and complete the work with due diligence, the work may be done or completed by
16 the municipality and assessment of benefits made therefor.

17 SECTION 123. 30.32 [✓] of the statutes is renumbered 30.493.

18 SECTION 124. 30.33 [✓] of the statutes is renumbered 30.494.

19 SECTION 125. 30.34 [✓] of the statutes is renumbered 30.495 [✓] and 30.495 (1), (2),
20 (3) (a) and (4), as renumbered, are amended to read:

21 30.495 (1) HARBOR FUND TO BE CREATED. All municipalities operating a public
22 harbor through a board of harbor commissioners shall establish in the municipal
23 treasury a revolving fund to be known as the "harbor fund". Moneys for such fund
24 may be raised by appropriation from the general fund or by taxation or loan as other

X
SECTION CR; 30.323 (title) (B)
30.323 (title) Pierhead Lines. (B)

1 moneys in the general fund are raised. Moneys in such fund may be expended only
2 as provided in s. ~~30.38~~ [✓] 30.498 (13).

3 (2) FINANCING DOCK WALLS AND SHORE PROTECTION WALLS. A municipality may
4 pay either or both the assessable and nonassessable parts of the cost of the
5 construction, maintenance² or repair of any dock wall or shore protection wall,
6 authorized by s. ~~30.30~~ 30.491 (3), out of its general fund or other available funds, or
7 it may finance such work through the issuance of its negotiable bonds as provided
8 in ch. 67, except that it is not necessary to include such bonds in the municipal budget
9 or to submit the question of their issuance to a referendum vote of the electors. The
10 bonds shall be serial bonds, [✓] [✓] ~~payable~~ ^{shall be} at any time within 10 years, and shall bear
11 interest payable either annually or semiannually as the governing body determines.
12 The bonds shall be a direct obligation of the municipality and the full faith and credit
13 of the municipality shall be pledged for their payment. No such bonds shall be issued
14 unless at or before the time of their issuance the governing body levies a direct
15 annual tax sufficient to pay the principal and interest thereon as they fall due.

16 ~~(3) FINANCING BY MEANS OF NOTES, BONDS OR ASSIGNMENTS OF NET PROFITS~~ (a) Any
17 municipality may, with the consent of its board of harbor commissioners, finance the
18 cost of acquisition, construction, alteration² or repair of any harbor facility by issuing
19 evidences of indebtedness payable only out of the revenue obtained from the public
20 harbor facilities. Such evidences of indebtedness may be revenue bonds, refunding
21 bonds, or bond anticipation notes issued under s. ~~30.35~~ [✓] 30.496 or 66.1103 or may be
22 pledged or assignments of net profits, issued pursuant to s. 66.0621 (5) as if the
23 harbor facility were a public utility.

24 (4) EMERGENCY REPAIR FUND. Any municipality having established a board of
25 harbor commissioners to operate its harbor facilities may create a contingent fund

SECTION

CR; 30.341 (title)

30.341 (title) Department of Transportation activities.

for the purpose of permitting the secretary of the board to pay for repairs to harbor facilities which constitute emergency repairs within the meaning of s. 30.32 30.493

(4). The secretary may pay for such repairs out of such fund on the secretary's signature alone.

SECTION

INSERT 59-4

SECTION 126. 30.35 of the statutes ~~as affected by 2001 Wisconsin Act 16~~ is ^{step}renumbered 30.496 (1) and 30.496 (6), as renumbered, is amended to read:—

30.496 (6) BONDHOLDERS AND NOTEHOLDERS HAVE LIEN. Title to all of the harbor facilities for which revenue bonds, refunding bonds, or bond anticipation notes are issued remains in the municipality, but a statutory lien exists in favor of the bondholders and noteholders against the facilities which have been acquired, constructed, altered, or remodeled and the cost of which has been financed with funds obtained through the issuance of such bonds and notes. To provide further security for the bondholders and noteholders, the ordinance or resolution authorizing the issuance of revenue bonds, refunding bonds, or bond anticipation notes may provide for a pledge of the revenues of the facilities, including, if the facilities are leased under sub. (6) this subsection, an assignment of all or part of the municipality's rights as lessor.

SECTION 127. 30.353 of the statutes is created to read:

30.353 Department may raise water elevations. If after examination and investigation the department determines that it is necessary to raise water elevations in any navigable stream or navigable lake for conservation purposes, the department may, if funds are available from any source other than license fees, determine and establish the elevations to which the water may be raised or maintained, but the water elevation may not be established below the normal elevation. If any lands are damaged by raising the water levels above normal and

1 the department cannot acquire the right to flow the lands by agreement with the
2 owner, the department may acquire the lands or the right to flow the lands by
3 condemnation under ch. 32.

NOTE: This provision is identical to current s. 30.18 (8).

4 SECTION 128. 30.37 of the statutes is renumbered 30.497, and 30.497 (6) and
5 (7), as renumbered, are amended to read:

6 30.497 (6) EFFECT OF REVISION ON EXISTING HARBOR BOARDS. Boards of harbor
7 commissioners, harbor commissions, or dock and harbor boards in existence on
8 January 1, 1960, are deemed to be valid boards of harbor commissioners as if created
9 pursuant to this section and are vested with all the powers and duties conferred upon
10 boards of harbor commissioners by this chapter subchapter. The members of such
11 boards may continue to hold office until their terms expire, notwithstanding any
12 provision of this section which would otherwise disqualify them, but appointments
13 made after January 1, 1960, shall be made only in accordance with this section.
14 Nothing in this subsection is intended to prevent a municipality by resolution from
15 abolishing its board of harbor commissioners, harbor commission, or dock and harbor
16 board.

17 (7) MILWAUKEE COUNTY. Milwaukee County, with respect to the land ceded or
18 granted to Milwaukee County as described in 1997 Wisconsin Act 70, section 3, may
19 directly exercise all of the powers and perform all of the duties conferred on a board
20 of harbor commissioners under ss. 30.34 ~~30.495~~, 30.35 ~~30.496~~ and 30.38 ~~30.498~~, but
21 Milwaukee County may not create a board of harbor commissioners if sub. (1) (b)
22 applies. Milwaukee County shall have exclusive jurisdiction over the operation,
23 administration, maintenance, improvement, alteration, and repair of any marina
24 facility or marina related anchorage located on this land.

30.495, 30.496, and 30.498

MS 60-
24

^{stet}
1 **SECTION 129.** 30.38 of the statutes, as affected by 2001 Wisconsin Act 16, is
2 ^{stet}renumbered 30.498 and 30.498 (3) and (13) (a) and (b), as renumbered, are amended
3 to read: ^{stet} ^{stet} TUS

4 30.498 (3) CONTRACT PROCEDURES. In the letting of work relative to the
5 construction, repair or maintenance of a harbor or harbor facility or in the purchase
6 of equipment, supplies or materials relative to carrying out its powers and duties, a
7 board of harbor commissioners shall be governed by the procedures and
8 requirements set forth in s. 30.32 [✓]30.493. INF 1-3

9 (13) ~~FUNDS, DISBURSEMENTS, NET REVENUE~~ (a) All moneys appropriated to a
10 board of harbor commissioners, all revenues derived from the operation of the public
11 harbor except in the case of a joint harbor revenue from joint improvements before
12 division thereof, and all other revenues of the board shall be paid into the municipal
13 treasury and credited to the harbor fund, except that revenues assigned or pledged
14 under s. 30.35 [✓]30.496 (6) or 66.1103 shall be paid into the fund or funds provided for
15 in the ordinance or resolution authorizing the issuance of the bonds and shall be
16 applied in accordance with that ordinance or resolution.

17 (b) Subject to the limitations and conditions otherwise expressed in this section
18 and to a budget approved by the municipal governing body, moneys in the harbor
19 fund may be used for the acquisition, construction, improvement, repair,
20 maintenance, operation and administration of the public harbor and harbor facilities
21 and for the acquisition, chartering and operation of vessels under sub. (8) (b) 3.
22 Except as provided in s. 30.34 [✓]30.495 (4), such moneys shall be paid out of the harbor
23 fund only on orders signed by the president and secretary of the board, or some other
24 official authorized by the board, after the allowance of claims by the board or on
25 orders entered in the minutes of the board. Disbursements from the harbor fund

1 shall be audited as other municipal disbursements are audited; however, the board
2 may determine on some other procedure it deems appropriate for the consideration
3 of claims and the reporting thereof notwithstanding the provisions of this paragraph.
4 If a procedure other than that set forth in this paragraph is prescribed by the board,
5 the approval of the chief auditing officer shall be obtained.

6 **SECTION 130.** 30.381 (title) of the statutes is created to read:

~~30.381 (title) Penalties.~~
(2nd)

8 **SECTION 131.** 30.50 (1b) of the statutes is created to read:

9 30.50 (1b) "Aids to navigation" means buoys, beacons and other fixed objects
10 in the water which are used to mark obstructions to navigation or to direct navigation
11 through safe channels.

NOTE: This definition is moved here from current s. 30.74 (2) (b).

12 **SECTION 132.** 30.50 (2) of the statutes is renumbered 30.01 (1a).

NOTE: The definition of "boat" or "vessel" is relocated to the definitions applicable
to the entire chapter.

13 **SECTION 133.** 30.50 (4q) of the statutes is amended to read:

14 30.50 (4q) "Lake sanitary district" means a town sanitary district that has
15 within its boundaries at least 60% of the footage of shoreline of a public inland lake,
16 as defined in s. 60.782 (1), for which a public inland lake protection and rehabilitation
17 district is not in effect. The footage of shoreline shall be measured by use of a map
18 wheel on the U.S. geological survey 7-1/2 minute series map.

NOTE: The current statutes provide for the determination of shoreline footage in
s. 30.105. Section 30.105 is replicated in the 3 statutes where measurement of shoreline
footage is specified.

19 **SECTION 134.** 30.50 (4u) of the statutes is created to read:

20 30.50 (4u) "Local governmental unit" means a town, village, city, county, town
21 sanitary district or public inland lake protection and rehabilitation district.

? where
is "A"

INSERT 62-7A
62-7B

INSERT 62-7B
62-7D